

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

LORENZO CORONADO-CASTILLO

PETITIONER

v.

CIVIL ACTION NO. 5:18-cv-134-DCB-MTP

SHAWN R. GILLIS

RESPONDENT

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court on Magistrate Judge Michael T. Parker's Report and Recommendation [ECF No. 14] and his Report and Recommendation [ECF No. 20], to which neither have had objections filed. Having carefully reviewed the same, the Court finds both Report and Recommendations to be well taken and hereby adopts them as the findings and conclusions of this Court.

Report and Recommendation Regarding the Motion to Dismiss

Magistrate Judge Parker recommends denying as moot Shawn R. Gillis ("Gillis") and Core Civic Corporation's Motion [ECF No. 9] to dismiss for failure to state a claim. Gillis and Core Civic Corporation move to dismiss Petitioner's § 1983 claims to the extent that there are any brought in the Petition for Writ of Habeas Corpus or could ever be construed to assert a cause of action. However, there are no § 1983 claims before the Court and Core Civic Corporation is no longer a party to this action. If Petitioner intends to bring such claims, he must do so in a

separate lawsuit. Therefore, the Motion to Dismiss is moot and unnecessary. Accordingly, it is DENIED.

Report and Recommendation Regarding Failure to Prosecute

Magistrate Judge Parker brings this Report and Recommendation sua sponte, upon the Petitioner's failure to prosecute this action or provide a current address. The Report and Recommendation states that:

"Petitioner filed his Petition [1] on December 10, 2018. On October 22, 2019, the undersigned [Magistrate Judge Parker] entered a Report and Recommendation [14] regarding one of the named Defendants, and the Report and Recommendation [14] was returned as undeliverable on November 4, 2019. See [15]. On November 7, 2019, the Court entered an Order [16] to Show Cause and directed Petitioner to provide an updated address. On November 20, 2019, the Order [16] was returned as undeliverable. See [17]. The Court then entered a second Order [18] to Show Cause on November 26, 2019. The Order [18] was returned as undeliverable on December 12, 2019. See [19]. Additionally, the Bureau of Prisons website reflects that Petitioner was released on June 28, 2019, but Petitioner has not provided a new address."

"The Court cannot proceed with Plaintiff's case if he is not willing to participate as a litigant." Santos v. United States, 2019 WL 1308259, at *2 (S.D. Tex. Feb. 5, 2019) (citing McCullough v. Lynaugh, 835 F. 2d 1126, 1127 (5th Cir. 1988)). "A district court may dismiss an action for failure of a plaintiff to prosecute or comply with any order of court." McCullough, 835 F. 2d at 1127 (citing Fed. R. Civ. P. 41(b)). "[L]itigants,

including prisoners, bear the burden of filing notice of a change of address in such a way that will bring the attention of the court to the address change." Feliz v. United States, 2016 WL 6581337, at *3 (S.D. Tex. Oct. 10, 2016) (internal quotations and citation omitted); see also Lewis v. Hardy, 248 Fed. App'x 589, 593 n.1 (5th Cir. 2007) (stating that "the failure of a pro se litigant to notify the district court of an address change may be considered by the district court as an additional cause for dismissal for failure to prosecute.").

Accordingly,

IT IS HEREBY ORDERED AND ADJUDGED that the Court ADOPTS Magistrate Judge Michael T. Parker's Report and Recommendations [ECF Nos. 14 & 20] as the findings and conclusions of this Court.

IT IS FURTHER ORDERED that the Motion to Dismiss for Failure to State a Claim [ECF No. 9] is DENIED AS MOOT.

IT IS FURTHER ORDERED that this action is DISMISSED WITHOUT PREJUDICE for the Petitioner's failure to prosecute and failure to provide an updated address to the Court.

A final judgment shall be entered pursuant to Rule 58 of the Federal Rules of Civil Procedure in an Order of even date herewith.

SO ORDERED this the 10th day of March, 2020.

___/s/ David Bramlette_____

UNITED STATES DISTRICT JUDGE